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Foreword

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FOREWORD

It is with great pride that the Editors and Staff of the *Richmond Journal of Law and the Public Interest* present the second annual issue of *The General Assembly in Review*. This publication is designed to give interested community members an annual overview of Virginia's legislative session by highlighting notable legislation filed in the session and providing analysis on relevant public policy issues.

The 2009 session of the General Assembly was an interesting one. In a surprising move, the legislature enacted a smoking ban in restaurants and bars against the opposition of the Virginia tobacco industry. The governor also signed into law a prohibition on sending text messages and electronic mail while driving. Most recently, the General Assembly held a special session in August in response to the decision of the Supreme Court of the United States in *Melendez-Diaz v. Massachusetts*, which concluded that the Sixth Amendment's Confrontation Clause applied to certificates of analysis by forensic laboratories. In other words, a defendant has the right to cross-examine those who prepare lab reports on forensic evidence. The Court overturned a Massachusetts statute that placed the burden of calling the lab technician as a witness on the defendant, a ruling that questioned the constitutionality of a nearly identical Virginia statute. The General Assembly convened shortly after the Court issued this decision in order to bring state law into compliance with constitutional requirements, and it enacted an amendment that converted the code section into the type of notice-and-object statute approved by the Supreme Court.

Each of these significant changes and many more are detailed in the legislative summary section of this issue. These bills are organized in ascending order, but can be searched by keyword, code section affected, and Act of Assembly chapter in the indices provided as a search tool. A review of these bills suggests that there were a number of important topics taken up during the 2009 legislative session.

High rates of voter turnout in the 2008 presidential election generated increased attention to electoral administration by the General Assembly. One particularly important issue was absentee voting, which

has become increasingly common in recent years. James Alcorn, Policy Advisor to the Virginia State Board of Elections, discusses the expansion of absentee voting procedures in the last two decades and constitutional issues related to these changes. Another significant electoral issue addressed by state legislators this year was redistricting reform. Senator R. Creigh Deeds, the 2009 Democratic candidate for Governor and a dedicated proponent of creating a bipartisan or nonpartisan redistricting process, has authored an editorial on this issue. His viewpoint contrasts with that of Delegate Mark Cole, Chairman of the Privileges and Elections Committee, who has consistently defended maintaining the current redistricting process as the only method that makes legislators directly accountable to the voters.

The dramatic economic downturn of the past year and state budget shortfalls also created extensive debate among legislators and community advocates. Even before the annual session began in January of 2009, there was talk of cuts in state education funding. An article by Angela Ciolfi and Sarah Geddes of JustChildren, a program of the Legal Aid Justice Center, discusses the decrease in Virginia's funding commitment to public education and describes the substantive education legislation enacted in this session, as well as regulations promulgated by the Board of Education in the past year. Whether the budget cuts adopted by the 2009 General Assembly will be permanent is unclear, an issue addressed in an editorial by Robley Shelton Jones, Director of Governmental Relations for the Virginia Education Association.

The issue of firearm regulation has been a fiercely controversial topic in the Commonwealth since the April 2007 shootings on the Virginia Tech campus. Susheela Varky of the Virginia Poverty Law Center takes up this topic in the context of protective orders and emphasizes the importance of properly registering protective orders to ensure that individuals who pose a credible threat to the safety of another are not permitted to purchase or possess firearms. Andrew Goddard, president of the Richmond Chapter of the Million Mom March, contributes an editorial that takes a similar position in favor of gun control. It advocates the close of the so-called gun show loophole—the ability of sellers to conduct firearms transactions at gun shows without background checks on buyers. On the other side of this debate is an editorial by Philip Van Cleave, president of the Virginia Citizen's Defense League, which adopts the view that background checks will not necessarily prevent tragedies like the Virginia Tech shooting, but such restraints on firearms purchases will effectively result in gun confiscation.

Pieces by two student authors explored other noteworthy issues under

consideration by state legislators in 2009. Michael Keoni Medici looks at the law of local ordinances and analyzes the impact of a bill decreasing the degree of hardship that variance applicants must prove to receive a deviation from zoning ordinances. Anisa Mohanty comments on the Virginia triggerman rule, discussing the General Assembly's passage and the Governor's subsequent veto—for the second year in a row—of a bill that would have allowed the Commonwealth to charge principals in the second degree and accessories before the fact as principals in the first degree to try these perpetrators for capital murder.

I would like to thank all of the dedicated authors who contributed their time and expertise to write the pieces featured in this issue. I would also like to thank the staff members who assisted throughout the editing process and the members of the General Assembly Committee who took the time to monitor and summarize legislation as it passed through the legislature. Special thanks to the Editors of both the 2008–2009 and the 2009–2010 editorial boards of the *Richmond Journal of Law and the Public Interest* who spent countless hours to make this publication possible.

I am very pleased to present this issue of *The General Assembly in Review*. We hope that lawyers, legislators, community advocates, and interested citizens are all able to benefit from this timely and topical analysis of the most recent General Assembly session.

Chelsea Dunn

General Assembly Editor